

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

NICK H. LEE, M.D.,
617 North Hidalgo Avenue
Alhambra, California 91801

Physician and Surgeon's Certificate No. A61218

Respondent.

Case No. 06-99-101722

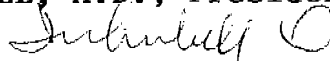
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on July 6, 2000, or such other date as respondent Nick H. Lee, M.D., is released from custody in the underlying criminal matter.

It is so ORDERED July 12, 2000

IRA LUBELL, M.D., President



FOR THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

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DIVISION OF MEDICAL QUALITY
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Physician and Surgeon's Certificate
No. A61218,

Respondent.

Case No. 06-99-101722

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Complainant Ron Joseph is the Executive Director of the Medical Board
of California who brought this action solely in his official capacity and is represented in this
matter by Bill Lockyer, Attorney General of the State of California, by Mark T. Roohk, Deputy
Attorney General.

2. Respondent Nick H. Lee, M.D. ("Respondent") is represented in this
matter by attorney David L. Rosner, Esq., whose address is 12400 Wilshire Boulevard, Suite
900, Los Angeles, California 90025.

3. On or about November 13, 1996, the Medical Board of California issued Physician and Surgeon's Certificate Number A61218 to Nick H. Lee, M.D. ("Respondent"). The Physician and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2000, unless renewed.

JURISDICTION

4. Accusation No. 06-99-101722, was filed before the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs, ("Division"), and is currently pending against Respondent. The Accusation, together with all other statutorily required documents, was duly served on Respondent on March 29, 2000, and Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 06-99-101722 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and discussed with his counsel the nature of the charges and allegations in the Accusation and the effects of this stipulation.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at his own expense, the right to confront and cross-examine the witnesses against him, the right to present evidence and to testify on his own behalf and to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to reconsideration and court review of an adverse decision, and all other rights accorded by to the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Physician and Surgeon's Certificate.

9. Respondent admits the truth of paragraphs 1-4, inclusive, in Accusation No. 06-99-101722.

10. Respondent agrees that his Physician and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Division's imposition of discipline as set forth in the Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Division of Medical Quality, Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceedings.

CONTINGENCY

12. This stipulation shall be subject to the approval of the Division.

Respondent understands and agrees that Medical Board of California's staff and counsel for complainant may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. If the Division fails to adopt this stipulation as its Order, the stipulation shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action in this matter by virtue of its consideration of this stipulation.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Division shall, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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1 **DISCIPLINARY ORDER**

2 **IT IS HEREBY ORDERED** that as of the effective date of this decision,
3 Physician and Surgeon's Certificate No. A61218 issued to Nick H. Lee, M.D. is revoked.
4 However the revocation is stayed and Respondent is placed on probation for five (5) years on the
5 terms and conditions that follow.

6 Within 15 days after the effective date of this decision respondent shall provide
7 the Division, or its designee, proof of service that respondent has served a true copy of this
8 decision on the Chief of Staff or the Chief Executive Officer at every hospital where privileges or
9 membership are extended to respondent or where respondent is employed to practice medicine
10 and on the Chief Executive Officer at every insurance carrier where malpractice insurance
11 coverage is extended to respondent.

12 1. **EFFECTIVE DATE OF DECISION IF ADOPTED WHILE**
13 **RESPONDENT IS IN CUSTODY** As a result of the criminal conviction underlying this matter,
14 respondent was sentenced to six months in custody, during which time he will not be allowed to
15 practice medicine. It is agreed that, notwithstanding the actual period of time respondent remains
16 in custody, this decision shall become effective upon respondent's release from custody, which is
17 tentatively set for July 6, 2000, or if that date is changed any other such release date as may be
18 determined. Respondent shall be responsible for notifying the Division or its designee of his
19 release date within seventy-two (72) hours of release. Failure to provide such notice shall
20 constitute a violation of probation.

21 2. **ACTUAL SUSPENSION** As part of probation, respondent is suspended
22 from the practice of medicine for 90 days, beginning the effective date of this decision.

23 3. **COMPLY WITH ALL CRIMINAL ORDERS** Respondent shall comply
24 with all orders issued in the criminal case underlying this matter, including any and all conditions
25 of probation and any and all orders requiring cost recovery, restitution, and/or other payments.

26 4. **ETHICS COURSE** Within sixty (60) days of the effective date of this
27 decision, respondent shall enroll in a course in Ethics approved in advance by the Division or its
28 designee, and shall successfully complete the course during the first year of probation.

1 5. MONITORING Within thirty (30) days of the effective date of this
2 decision, respondent shall submit to the Division or its designee for its prior approval a plan of
3 practice in which respondent's billing shall be monitored by another physician in respondent's
4 field of practice, who shall provide periodic reports to the Division or its designee.

5 If the monitor resigns or is no longer available, respondent shall, within fifteen
6 (15) days, move to have a new monitor appointed, through nomination by respondent and
7 approval by the Division or its designee.

8 6. OBEY ALL LAWS Respondent shall obey all federal, state and local
9 laws, all rules governing the practice of medicine in California, and remain in full compliance
10 with any court ordered criminal probation, payments and other orders.

11 7. QUARTERLY REPORTS Respondent shall submit quarterly
12 declarations under penalty of perjury on forms provided by the Division, stating whether there
13 has been compliance with all the conditions of probation.

14 8. PROBATION SURVEILLANCE PROGRAM COMPLIANCE
15 Respondent shall comply with the Division's probation surveillance program. Respondent shall,
16 at all times, keep the Division informed of his business and residence addresses which shall both
17 serve as addresses of record. Changes of such addresses shall be immediately communicated in
18 writing to the Division. Under no circumstances shall a post office box serve as an address of
19 record.

20 Respondent shall also immediately inform the Division, in writing, of any travel
21 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
22 than thirty (30) days.

23 9. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
24 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the
25 Division, its designee or its designated physician(s) upon request at various intervals and with
26 reasonable notice.

27 10. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
28 STATE NON-PRACTICE In the event respondent should leave California to reside or to

1 practice outside the State or for any reason should respondent stop practicing medicine in
2 California, respondent shall notify the Division or its designee in writing within ten (10) days of
3 the dates of departure and return or the dates of non-practice within California. Non-practice is
4 defined as any period of time exceeding thirty (30) days in which respondent is not engaging in
5 any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time
6 spent in an intensive training program approved by the Division or its designee shall be
7 considered as time spent in the practice of medicine. Periods of temporary or permanent
8 residence or practice outside California or of non-practice within California, as defined in this
9 condition, will not apply to the reduction of the probationary period.

10 11. COMPLETION OF PROBATION Upon successful completion of
11 probation, respondent's certificate shall be fully restored.

12 12. VIOLATION OF PROBATION If respondent violates probation in any
13 respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke
14 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
15 revoke probation is filed against respondent during probation, the Division shall have continuing
16 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
17 is final.

18 13. COST RECOVERY The respondent is hereby ordered to reimburse the
19 Division the amount of \$2,500 within one year of the effective date of this decision for its
20 investigative and prosecution costs. Payments shall be made in quarterly installments of \$625
21 each, unless other arrangements are made and approved by the Division or its designee. Failure
22 to reimburse the Division's cost of investigation and prosecution shall constitute a violation of
23 the probation order, unless the Division agrees in writing to payment by an installment plan
24 because of financial hardship. The filing of bankruptcy by the respondent shall not relieve the
25 respondent of his responsibility to reimburse the Division for its investigative and prosecution
26 costs.

27 14. PROBATION COSTS Respondent shall pay the costs associated with
28 probation monitoring each and every year of probation, which are currently set at \$2,304 per

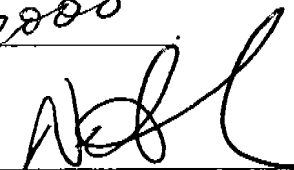
1 year, but may be adjusted on an annual basis. Such costs shall be payable to the Division of
2 Medical Quality and delivered to the designated probation surveillance monitor at the beginning
3 of each calendar year. Failure to pay costs within 30 days of the due date shall constitute a
4 violation of probation.

5 15. LICENSE SURRENDER Following the effective date of this decision, if
6 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
7 the terms and conditions of probation, respondent may voluntarily tender his certificate to the
8 Board. The Division reserves the right to evaluate the respondent's request and to exercise its
9 discretion whether to grant the request, or to take any other action deemed appropriate and
10 reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent
11 will not longer be subject to the terms and conditions of probation.

12
13 ACCEPTANCE


14 I have carefully read the above Stipulated Settlement and Disciplinary Order and
15 have fully discussed the terms and conditions and other matters contained therein with my
16 attorney David L. Rosner, Esq., I understand the effect this stipulation will have on my Physician
17 and Surgeon's Certificate. I enter into this Stipulated Settlement voluntarily, knowingly and
18 intelligently and agree to be bound by the Disciplinary Order and Decision of the Division of
19 Medical Quality, Medical Board of California.

20 DATED: 5/16/2000

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22 
23 NICK H. LEE, M.D.
24 Respondent
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1 I have read and fully discussed with Respondent Nick H. Lee, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
3 and approve its form and content.

4 DATED: 5/22/2000

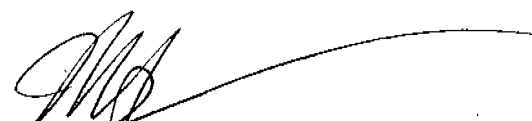
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6 DAVID L. ROSNER, ESQ.
7 Attorney for Respondent
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9

10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the Division of Medical Quality, Medical Board of California of
13 the Department of Consumer Affairs.

14 DATED: 5/31/00

15 BILL LOCKYER, Attorney General
16 of the State of California

17 
18 MARK T. TROOHK
19 Deputy Attorney General
20 Attorneys for Complainant

21 DOJ Docket Number: 03573160-LA99AD2047
22 Stipulation 3/8/00
23
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Exhibit A:
Accusation, Case No.06-99-101722,

1 BILL LOCKYER, Attorney General
of the State of California
2 MARK T. ROOHE (State Bar No. 132698)
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1233
Telephone: (213) 897-2568

5 Attorneys for Complainant
6

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *March 29 2000*
BY *Amelia B. Maden*

7
8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation) Case No. 06-99-101722
14 Against:)

15 **NICK H. LEE, M.D.**)

ACCUSATION

16 2414 S. Barrington Avenue #212)
17 Los Angeles, California 90064)

18 Physician and Surgeon's Certificate)
19 No. A61218,)

20 Respondent.)
21

22 The Complainant alleges:

23 **PARTIES**

24 1. Ron Joseph ("Complainant") brings this accusation
25 solely in his official capacity as the Executive Director of the
26 Medical Board of California (hereinafter "Board").

27 2. On or about November 13, 1996, Physician and
Surgeon's Certificate No. A61218 was issued by the Board to Nick H.
Lee, M.D. (hereinafter "respondent"). At all times relevant to the
charges brought herein, this license has been in full force and
effect. Unless renewed, it will expire on June 30, 2000.

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1 C. Section 2236 of the Code provides that:

2 (a) The conviction of any offense substantially
3 related to the qualifications, functions, or duties of a
4 physician and surgeon constitutes unprofessional
5 conduct. . . The record of conviction shall be
6 conclusive evidence only of the fact that the conviction
7 occurred.

8 . . .

9 (c) . . . The division may inquire into the
10 circumstances surrounding the commission of a crime in
11 order to fix the degree of discipline or to determine if
12 such conviction is of an offense substantially related to
13 the qualifications, functions, or duties of a physician
14 and surgeon.

15 (d) A plea or verdict of guilty or a conviction
16 following a plea of nolo contendere is deemed to be a
17 conviction within the meaning of this section. . .

18 D. Section 810 of the Code provides, in pertinent
19 part, that:

20 (a) It shall constitute unprofessional conduct and
21 grounds for disciplinary action, including suspension or
22 revocation of a license or certificate, for a health care
23 professional to do any of the following in connection
24 with his professional activities:

25 (1) Knowingly present or cause to be presented any
26 false or fraudulent claim for the payment of a loss under
27 a contract of insurance.

1 (2) Knowingly prepare, make, or subscribe any
2 writing, with intent to present or use the same, or to
3 allow it to be presented or used in support of any such
4 claim.

5
6 **COST RECOVERY**

7 E. Section 125.3 of the Code provides, in part,
8 that the Division may request the administrative law judge to
9 direct any licentiate found to have committed a violation or
10 violations of the licensing act, to pay the Division a sum not
11 to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13
14 **WELFARE & INSTITUTIONS CODE PROVISION**

15 F. Section 14124.12 of the Welfare and
16 Institutions Code provides, in pertinent part, that:

17 (a) Upon receipt of written notice from the Medical
18 Board of California. . .that a licensee's license has been
19 placed on probation as a result of a disciplinary action, the
20 department may not reimburse any Medi-Cal claim for the type
21 of surgical service or invasive procedure that gave rise to
22 the probation. . .that was performed by the licensee on or
23 after the effective date of probation and until the
24 termination of all probationary terms and conditions or until
25 the probationary period has ended, whichever occurs first.
26 This section shall apply except in any case in which [the
27 Board] determines that compelling circumstances warrant the

1 continued reimbursement during the probationary period of any
2 Medi-Cal claim. . . In such a case, the department shall
3 continue to reimburse the licensee for all procedures, except
4 for those invasive or surgical procedures for which the
5 licensee was placed on probation.

6
7 **FIRST CAUSE FOR DISCIPLINE**

8 (Conviction of a Crime)

9 4. Respondent is subject to disciplinary action under
10 sections 2234 and 2236 of the Code in that he has been convicted of
11 a crime which is substantially related to the qualifications,
12 functions, or duties of a physician and surgeon. The circumstances
13 are as follows:

14 A. On or about February 14, 2000, respondent was
15 convicted by plea of guilty to one count of a violation of
16 Penal Code §550(A)(6) (insurance fraud) in case number
17 NA042645 of the Municipal Court of the County of Los Angeles,
18 Long Beach Judicial District, entitled People of the State of
19 California v. Nick Hung Lee.

20 B. The facts underlying this conviction are as
21 follows: between May and October 1998, inclusive, respondent
22 was employed as a physician at the Long Beach Medical Therapy
23 Clinic (hereinafter "Clinic"). While so employed, respondent,
24 along with other physicians and non-licensed employees,
25 knowingly made or caused to be made false claims for payment
26 of benefits under the Medi-Cal program. More specifically,
27 patient charts were created and signed, and Medi-Cal claims

1 were submitted by the Clinic regarding Medi-Cal beneficiaries
2 who were never seen there as patients.

3 C. On or about November 1, 1999, respondent was
4 arrested and charged with two counts of a violation of Penal
5 Code §550(A)(5) (false written claim), two counts of a
6 violation of Penal Code section §550(A)(6) (insurance fraud),
7 two counts of a violation of Penal Code §487(A) (grand theft),
8 and one count of a violation of Business and Professions Code
9 section 4324(A) (forged prescription).

10
11 **SECOND CAUSE FOR DISCIPLINE**

12 (Insurance Fraud)

13 5. Respondent is subject to disciplinary action under
14 sections 810 and 2234 of the Code in that he has knowingly prepared
15 writings in support of false insurance claims. The circumstances
16 are as follows:

17 A. Paragraph 4, subparagraphs (A)-(C), are
18 incorporated by reference as if set forth in full at this
19 point.

20
21 **THIRD CAUSE FOR DISCIPLINE**

22 (Dishonest or Corrupt Acts)

23 6. Respondent is subject to disciplinary action under
24 section 2234, subdivision (e) of the Code in that he has committed
25 dishonest or corrupt acts which are substantially related to the
26 qualifications, functions, or duties of a physician and surgeon.
27 The circumstances are as follows:

1 A. Paragraph 4, subparagraphs (A)-(C), are
2 incorporated by reference as if set forth in full at this
3 point.

4
5 **PRAYER**

6 **WHEREFORE**, the complainant requests that a hearing be
7 held on the matters herein alleged, and that following the hearing,
8 the Division issue a decision:

9 1. Revoking or suspending Physician and Surgeon's
10 Certificate Number A61218, heretofore issued to respondent Nick H.
11 Lee, M.D.;

12 2. Revoking, suspending or denying approval of
13 respondent's authority to supervise physician's assistants,
14 pursuant to section 3527 of the Code;

15 3. Ordering respondent to pay the Division the
16 reasonable costs of the investigation and enforcement of this case
17 and, if placed on probation, the costs of probation monitoring;

18 4. Taking such other and further action as the Division
19 deems necessary and proper.

20 DATED: March 29, 2000.

21
22 

23 Ron Joseph
24 Executive Director
25 Medical Board of California
26 Department of Consumer Affairs
27 State of California

Complainant